

Department of Community Planning and Economic Development – Planning Division
Expansion of Nonconforming Use, Conditional Use Permit and Variance
BZZ-3336

Date: December 18, 2006

Applicant: Curt Adams

Addresses of Property: 4017-4019 Queen Avenue South

Project Name: Curt Adams Residence

Contact Person and Phone: Curt Adams, (952) 920-4192

Planning Staff and Phone: Shanna Sether, (612) 673-2307

Date Application Deemed Complete: November 22, 2006

End of 60-Day Decision Period: January 21, 2007

End of 120-Day Decision Period: Not applicable for this application

Ward: 13 **Neighborhood Organization:** Linden Hills Neighborhood Council

Existing Zoning: R1 Single-family district and SH Shoreland Overlay District

Proposed Zoning: Not applicable for this application.

Zoning Plate Number: 29

Legal Description: Not applicable for this application

Proposed Use: Attached garage with a roof-top deck and bay window addition to an existing single family house, an attached garage addition to an existing carriage house and an addition to an existing carriage house

Concurrent Review:

Expansion of a nonconforming use: to allow for the construction of an attached garage and addition to an existing single-family dwelling and an addition with an attached garage to an existing carriage house in the R1 Single Family District.

Conditional use permit: to allow for the construction of an addition to an existing single-family dwelling located on a steep slope or bluff, or within 40 feet of the top of a steep slope or bluff within the SH (Shoreland) Overlay District.

Variance to permit development in the SH (Shoreland) Overlay District on a steep slope or bluff, or within 40 feet of the top of a steep slope or bluff.

Applicable zoning code provisions: Chapter 535, Regulations of General Applicability, Chapter 531, Nonconforming Uses and Structures, Chapter 525, Article VII, Conditional Use Permits, Chapter 525, Article IX, Variances and Chapter 551, Article VI, SH Shoreland Overlay District.

Background: The subject property contains two principal residential structures on the same zoning lot. The existing single family home, which is located nearest to Queen Avenue South, was moved onto the lot in 1919. The existing cottage, located in the rear of the property, was moved onto the lot in 1920. The Zoning Ordinance prohibits more than one (1) principal residential structure per zoning lot. Therefore, the existence and continuous use of the two principal residential structures on the same zoning lot deem the structures to be nonconforming. Structures containing one (1) or more legal nonconforming uses shall not be moved to a new location on the zoning lot, expanded, enlarged in any way, nor shall such use be intensified, except by granting of an application for expansion of nonconforming use.

The applicant is proposing to construct a new 12 ft. by 20 ft. attached garage with a roof-top deck to the rear of the structure and two bay window additions to rear of the main floor of the existing single family dwelling located at 4017 Queen Avenue South.

The applicant is also proposing to move the existing carriage house to the north and east of the property, excavate the existing foundation and construct a new walk-out foundation. In addition, the applicant is proposing to re-roof the existing carriage house and construct a new entry and deck to the south of the property and construct a 12 ft. 6 in. by 18 ft. attached garage towards to the front of the existing carriage house.

The property is zoned R1 and is located within the SH (Shoreland) Overlay District. Specifically, the area where the applicants are proposing to construct the addition is located within 40 feet of a steep slope. Due to the proximity of the property to lake Harriet, the grades on site and the location within the SH Shoreland Overlay District, the proposal requires a conditional use permit and variance to construct the proposed garages and move the existing carriage house within 40 feet of a steep slope. The SH Shoreland Overlay District defines a steep slope as land having an average slope of 18 percent or greater measured over a horizontal distance of 50 feet or more.

EXPANSION OF A LEGAL NONCONFORMING USE - to allow for the construction of an attached garage and addition to an existing single-family dwelling and an addition with an attached garage to an existing carriage house in the R1 Single Family District.

Findings as Required by the Minneapolis Zoning Code:

The Community Planning and Economic Development – Planning Division has analyzed the application and makes the following findings:

The Planning Commission may approve an application if it meets the following standards and all other applicable regulations in the zoning ordinance (this section shall not authorize a use prohibited in the zoning district in which it is located to be expanded beyond the boundaries of its zoning lot):

- 1. A rezoning of the property would be inappropriate.**

The property consists of an existing single family dwelling and a carriage house. Both were moved onto the lot in the early 1900's. The Zoning Ordinance prohibits more than one principal residential structure per zoning lot except in the case of cluster developments and planned unit developments. Based on the lot area, rezoning to a higher zoning classification and conditional use permit would have to be granted to make the existing uses conforming. Rezoning to a higher zoning classification would not be appropriate within the context of the surrounding area. The subject property and surrounding area is zoned R1 Single Family District.

2. The enlargement, expansion, relocation, structural alteration or intensification will be compatible with adjacent property and the neighborhood.

Principal Structure: The current owners have a driveway and curb cut off of Queen Avenue South. The driveway currently does not lead to an approved parking area. The applicant is proposing to construct an attached garage with roof-top deck and bay window additions to the rear of the existing single family home. Approximately half of the homes in the area have attached garages and most of the remaining homes have detached garages. In addition, several of the adjacent homes along Queen Avenue South similarly have rear porches, decks and/or patios that face Lake Harriet. The two bay window additions are proposed off of the main floor of the existing single family dwelling and will increase the floor area by approximately 100 square. The applicant's proposed garage addition with roof-top deck and bay window additions to the rear of the structure are consistent with other properties in the vicinity.

Carriage House: The applicant is proposing to lift the structure, excavate the existing foundation, build a new walk-out foundation, roof and attached garage and relocate the structure approximately 6 feet to the north and approximately 8 feet 2 inches to the east of the lot. The height of the structure, measured towards Queen Avenue South, will be approximately 11 feet 9 inches to the midpoint of the hip roof. The applicant has stated that the bulk will increase by 57 square feet of habitable area and 225 square feet of attached garage. Staff believes that the increased bulk will not substantially alter the existing carriage house and continue to be compatible with adjacent property and the neighborhood. In addition, the proposed height and relocation of the carriage house are consistent with the size and placement of other detached garages in the vicinity, which are generally located in the rear 40 feet of the properties.

3. The enlargement, expansion, relocation, structural alteration or intensification will not result in significant increases of adverse, off-site impacts such as traffic, noise, dust, odors, and parking congestion.

Principal Structure: The proposed garage would accommodate one vehicle and share a driveway to the other proposed attached garage.

Carriage House: The proposed garage would accommodate one vehicle and share a driveway to the other proposed attached garage.

4. The enlargement, expansion, relocation, structural alteration or intensification, because of improvements to the property, will improve the appearance or stability of the neighborhood.

The applicant is proposing to use a shake exterior on the carriage house to match the existing carriage house and white stucco on the garage addition to the existing single family home to match the existing structure. Planning staff believes the selected material for both structures will be relatively consistent with each other. To ensure compatibility with the property and surrounding area, all areas not covered by the driveway or walkways include turf or landscaping. The proposed driveway must be paved with asphalt, concrete, brick, cement pavers or similar material as required by section 541.300 of the zoning code.

- 5. In districts in which residential uses are allowed, the enlargement, expansion, relocation, structural alteration or intensification will not result in the creation or presence of more dwelling units on the subject property than is allowed by the regulations of the district in which the property is located.**

No additional dwelling units are proposed. The existing single family home currently contains an illegal second dwelling unit in the basement. The applicant is proposing to remove the illegal unit and convert the space back to habitable space to be used in conjunction with the rest of the existing dwelling.

- 6. The enlargement, expansion, relocation, structural alteration or intensification will not be located in the Floodway District.**

The site is not located in a Floodway District.

CONDITIONAL USE PERMIT – to allow for the construction of an addition to an existing single-family dwelling located within the SH (Shoreland) Overlay District

Findings as Required by the Minneapolis Zoning Code:

The Department of Community Planning and Economic Development – Planning Division has analyzed the application and from the findings above concludes that the establishment, maintenance, or operation of the proposed conditional use:

- 1. Will not be detrimental to or endanger the public health, safety, comfort or general welfare.**

The Planning Division does not believe that allowing the proposed construction within 40 feet of a steep slope would endanger the public health, safety, comfort or general welfare as the proposed additions and relocation of the carriage house are proposed to be constructed at a sufficient distance away from the top of the steep slope that exists at the rear of the adjacent property.

- 2. Will not be injurious to the use and enjoyment of other property in the vicinity and will not impede the normal or orderly development and improvement of surrounding property for uses permitted in the district.**

The Planning Division does not believe that constructing the proposed construction within 40 feet of a steep slope would impede development or be injurious to the use and enjoyment of other property in the area. The proposed attached garage and addition to the single family home and the proposed relocation and excavation planned for the carriage house should not cause any damage to the slope.

3. Adequate utilities, access roads, drainage, necessary facilities or other measures, have been or will be provided.

The applicants would be required to work closely with the Plan Review Section of the Inspections Department and the various utility companies during the duration of the development to ensure that all procedures are followed in order to comply with city and other applicable requirements.

4. Adequate measures have been or will be provided to minimize traffic congestion in the public streets.

The parking requirement for the proposed development is one off-street parking space per dwelling unit. The property does not currently support an approved parking area. However, the applicant is proposing to construct two new attached garages, one on each of the structures.

5. Is consistent with the applicable policies of the comprehensive plan.

The site abuts the historically designated Como-Harriet Streetcar Line and a designated park area. According to the principles and polices outlined in *The Minneapolis Plan*, the following apply to this proposal:

- Work with private and other public sector partners to invest in new development that is attractive, functional and adds value to the physical environment (Policy 9.6).
- Maintain and strengthen the character of the city's various residential areas (Policy 9.8).

This specific proposal is in conformance with the above noted principles and policies of the comprehensive plan. The proposed addition has been designed to replicate the scale and architecture of the existing house.

6. And, does in all other respects conform to the applicable regulations of the district in which it is located.

With the approval of the expansion of nonconforming use application, conditional use permit and the variance, this development will be in conformance with the applicable requirements of the R1 Zoning District and the SH Shoreland Overlay District.

The applicants must comply with the grading and filling regulations of Section 551.510, including employing best management practices to prevent erosion and trap sediment.

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Additionally, removal of vegetation on the steep slope shall be prohibited except as authorized by the zoning administrator in section 551.520 of the zoning code.

551.490. Conditional Uses: In addition to the conditional use standards contained in Chapter 525, Administration and Enforcement, the city planning commission shall consider the following:

1. The prevention of soil erosion or other possible pollution of public waters, both during and after construction.

The applicants will be required to prevent soil erosion and possible pollution of public waters, both during and after construction. The applicants will be required to install a silt fence during construction and will be required to follow all applicable City requirements to prevent any type of water pollution.

2. Limiting the visibility of structures and other development from protected waters.

The Planning Division does not believe that the proposed addition would significantly impact views from Lake Harriet as the additions will be constructed in an existing niche in the northeast corner of the lot. The bulk of both garage additions will be located further from the east property line than the existing house and the existing carriage house will not be substantially taller than it currently exists, because the lot will be excavated.

3. The suitability of the protected water to safely accommodate the types, uses and numbers of watercraft that the development may generate.

This development will not impact watercraft usage on Lake Harriet.

551.500. Development on slopes between twelve (12) and eighteen (18) percent. Development on slopes between twelve (12) and eighteen (18) percent, other than bluffs, where allowed by the primary zoning district, provided the development is not located within fifty (50) feet of the ordinary high water mark of any protected water, may be allowed in the SH Overlay District subject to the regulations of this article, Chapter 535, Regulations of General Applicability, and the following conditions:

1. The foundation and underlying material shall be adequate for the slope condition and soil type.

The applicants have indicated that the foundation and underlying material would be adequate for the existing slope conditions and soil types. The construction of the addition should not cause any damage to the slope.

2. The development shall present no danger of falling rock, mud, or uprooted trees or materials.

The applicants have indicated that the development would not present any danger of falling rock, mud or uprooted trees or other materials. The applicants will be required to install a silt fence around the site during construction.

- 3. The view of the developed slope from the protected water shall be consistent with the natural appearance of the slope, with any historic areas, and with surrounding architectural features.**

The Planning Division believes that the view of the developed slope from Lake Harriet would be minimally altered and would be consistent with the natural appearance of the slope and with the surrounding architectural features.

VARIANCE - to permit development in the SH (Shoreland) Overlay District on a steep slope or bluff, or within 40 feet of the top of a steep slope or bluff

Findings as Required by the Minneapolis Zoning Code for the Variances:

- 1. The property cannot be put to a reasonable use under the conditions allowed and strict adherence to the regulations of this zoning ordinance would cause undue hardship.**

To permit development in the SH (Shoreland) Overlay District on a steep slope or bluff, or within 40 feet of the top of a steep slope or bluff: The current use of the property is reasonable, however, it would be difficult to add on to the existing dwelling or relocate the existing carriage house to accommodate the proposed attached garages under the conditions allowed and with strict adherence to the regulations of the zoning code. The rear portion of the adjacent property to the north is considered a steep slope. Therefore, any development proposed on the rear of the existing lot would require a conditional use permit and a variance. To build outside of the steep slope or more than 40 feet from the top of the steep slope the proposed addition would need to be constructed on the front of the house which would be located in the required front yard. Due to the site constraints, the Planning Division believes that a hardship exists on the property.

- 2. The circumstances are unique to the parcel of land for which the variance is sought and have not been created by any persons presently having an interest in the property. Economic considerations alone shall not constitute an undue hardship if reasonable use for the property exists under the terms of the ordinance.**

To permit development in the SH (Shoreland) Overlay District on a steep slope or bluff, or within 40 feet of the top of a steep slope or bluff: The fact that any development on the rear of the site would require a conditional use permit and a variance is a unique circumstance of this property.

- 3. The granting of the variance will be in keeping with the spirit and intent of the ordinance and will not alter the essential character of the locality or be injurious to the use or enjoyment of other property in the vicinity.**

To permit development in the SH (Shoreland) Overlay District on a steep slope or bluff, or within 40 feet of the top of a steep slope or bluff: The Planning Division believes that the granting of this variance would be in keeping with the spirit and intent of the ordinance and would not alter the essential character of the locality or be injurious to the use or enjoyment of other property in the vicinity as the additions will be constructed in an existing niche in the northeast corner of the lot. The bulk of both garage additions will be located further from the east property line than the existing house and the existing carriage house will not be substantially taller than it currently exists, because the lot will be excavated.

- 4. The proposed variance will not substantially increase the congestion of the public streets, or increase the danger of fire, or be detrimental to the public welfare or endanger the public safety.**

To permit development in the SH (Shoreland) Overlay District on a steep slope or bluff, or within 40 feet of the top of a steep slope or bluff: The Planning Division believes that the granting of the variance would likely have little impact on congestion of area streets or fire safety, nor would the proposed variance be detrimental to welfare or public safety.

RECOMMENDATIONS:

Recommendation of the Department of Community Planning and Economic Development – Planning Division for the expansion of a nonconforming use:

The Department of Community Planning and Economic Development – Planning Division recommends that the City Planning Commission adopt the above findings and **approve** the expansion of a nonconforming use to allow for the construction of an attached garage and addition to an existing single-family dwelling and an addition with an attached garage to an existing carriage house in the R1 Single Family District for the property located at 4017-4019 Queen Avenue South.

Recommendation of the Department of Community Planning and Economic Development – Planning Division for the conditional use permit:

The Department of Community Planning and Economic Development – Planning Division recommends that the City Planning Commission adopt the above findings and **approve** the application for a conditional use permit to allow for the construction of an addition to an existing single-family dwelling located within the SH (Shoreland) Overlay District for property located at 4017-4019 Queen Avenue South subject to the following condition:

1. Removal of vegetation on the steep slope shall be prohibited except as authorized by the zoning administrator in section 551.520 of the zoning code.

**Recommendation of the Department of Community Planning and Economic Development–
Planning Division for the variance:**

The Department of Community Planning and Economic Development – Planning Division recommends that the City Planning Commission adopt the above findings and **approve** the variance to permit development in the SH (Shoreland) Overlay District on a steep slope or bluff, or within 40 feet of the top of a steep slope or bluff for property located at 4017-4019 Queen Avenue South.

Attachments:

1. Statement of use
2. Expansion of nonconforming use, conditional use permit and variance findings
3. November 16, 2006, e-mail to Council Member Hodges
4. December 4, 2006, e-mail from the Linden Hills Neighborhood Council
5. Zoning map
6. Contour map
6. Site plan, floor plans and elevations
7. Photos of the site and surrounding area